

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TYRONE WALKER,

Plaintiff,

v.

9:12-CV-807

THOMAS LaVALLEY, Superintendent,
Clinton Correctional Facility; S. BROWN,
Deputy Superintendent of Security, Clinton
Correctional Facility; CAPTAIN FACTEAU,
Captain and Acting Deputy Superintendent
of Security, Clinton Correctional Facility;
SERGEANT DELUTIS, Special Housing Unit,
Area Supervisor, Clinton Correctional Facility,

Defendants.

THOMAS J. McAVOY,
Senior United States District Judge

DECISION & ORDER

I. INTRODUCTION

Plaintiff Tyrone Walker ("Plaintiff" or "Walker"), an inmate currently in the custody of the New York State Department of Correctional and Community Services ("DOCCS"), brought this action pursuant to 42 U.S.C. § 1983 alleging that the defendants violated his rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution, and under the Religious Land Use and Institutionalized Persons Act of 2009 ("RLUIPA"), 42 U.S.C. § 2000cc-1 *et seq.* See Suppl. Compl. (Dkt. No. 48). Defendants moved for summary judgment, (Dkt. No. 40), which Walker opposed. (Dkt. No. 61). The matter was referred to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report and Recommendation pursuant to 28

U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c).

In his July 8, 2014 Report-Recommendation and Order, Magistrate Judge Hummel recommends that defendants' motions for summary judgment (Dkt. No. 40) be GRANTED as to all claims against all defendants. See Rep.-Rec. & Ord. (Dkt. No. 84). Walker has filed objections. (Dkt. No. 85).

II. STANDARD OF REVIEW

When objections to a magistrate judge's report and recommendation are lodged, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1)(C); see also United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir.1997)(The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate's findings.). "[E]ven a *pro se* party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument." Machicote v. Ercole, 2011 WL 3809920, at * 2 (S.D.N.Y., Aug. 25, 2011)(citations and interior quotation marks omitted); DiPilato v. 7-Eleven, Inc., 662 F. Supp.2d 333, 340 (S.D.N.Y. 2009)(same). General or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error. Farid v. Bouey, 554 F. Supp. 2d 301, 306 n. 2 (N.D.N.Y. 2008); see Frankel v. N.Y.C., 2009 WL 465645 at *2 (S.D.N.Y. Feb. 25, 2009).

After reviewing the report and recommendation, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with

instructions.” 28 U.S.C. § 636(b)(1)(C).

III. DISCUSSION

Plaintiff’s objections are, for the most part, little more than cursory statements saying he objects to Magistrate Judge Hummel’s conclusions because they were reached in error, or are recitations of arguments presented in opposition to the motion. Reviewing those parts of the Report-Recommendation and Order to which these objections are directed for clear error, the Court finds none.

Furthermore, even when conducting a *de novo* review of those portions of the Report-Recommendation and Order to which objections are made, the Court accepts and adopts Magistrate Judge Hummel’s recommendations for the reasons stated in his thorough report.

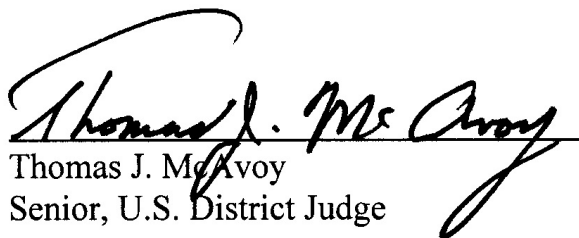
IV. CONCLUSION

For the reasons discussed above, the Court accepts and adopts Magistrate Judge Hummel’s recommendations for the reasons stated in his July 8, 2014 Report-Recommendation and Order (Dkt. No. 84). Defendants’ motions for summary judgment (Dkt. No. 40) is GRANTED and all claims against all defendants are DISMISSED.

The Clerk of the Court may enter judgment in favor of the defendants and close this file.

IT IS SO ORDERED.

Dated: September 23, 2014


Thomas J. McAvoy
Senior, U.S. District Judge